

Remarks

Reconsideration of this application is being requested. Claims 1-21 and 23-25 are in this application.

102(e) rejection under Sarkar

Claims 1-9, 11-17, and 19-20 were rejected under 35 USC 102(e) as being anticipated by US Patent Application Publication No. 2004/0160914 to Sarkar. Applicants respectfully disagree for the following reasons. First, claims 1 and 13 recite the limitation of “evaluating a reverse link loading by examining at least two resources within a first time period.” (underlines added for emphasis) The office action alleges that Sarkar’s “measuring the reverse link pilot quality” teaches applicants’ “evaluating a reverse link loading,” and Sarkar’s “determination of whether resources are available to accommodate request” and “C/I measurements, power control messages, etc.” teach applicants’ “examining at least two resources within a first time period.” Supposing these specific allegations are true, Sarkar nevertheless fails to teach or suggest that the reverse link pilot quality is measured (i.e., evaluating the reverse link loading) by examining available resources and C/I measurements, power control messages, etc. (i.e., examining at least two resources) within a first time frame.

Second, claims 1 and 13 recite the limitation of “broadcasting an availability of resources message in response to the evaluated reverse link loading.” (underline added for emphasis) The office action alleges Sarkar’s “respond to request” and “maximum value allowed” teach applicants’ “broadcasting an availability of resources message in response to the evaluated reverse link loading.” Applicants respectfully disagree. Sarkar teaches responding to a request of a particular mobile station. The response can be a grant to that particular mobile station allowing it to transmit on the reverse link. A maximum power level is associated with the grant. See page 7, paragraphs [0071] and [0074]. By contrast, claims 1 and 13 involves broadcasting of an availability of resources message. Broadcasting is a transmission intended for a group of mobile stations, and is not a transmission intended for only a particular mobile station. The availability of resources message indicates to mobile stations the resources available, and is not a grant to allow a particular mobile to transmit over the reverse link.

Since Sarkar does not teach or suggest “evaluating a reverse link loading by examining at least two resources within a first time period” or “broadcasting an availability of resources message in response to the evaluated reverse link loading,” it is felt that claims 1 and 13 are patentable under 35 USC 102(e) over Sarkar.

Claims 2-9, 11-12, 14-17 and 19-20 depend on, and include all the limitations of, either claims 1 or 13. For the reasons discussed earlier with respect to claims 1 and 13, Sarkar does not teach or suggest “evaluating a reverse link loading by examining at least two resources within a first time period” or “broadcasting an availability of resources message in response to the evaluated reverse link loading.” Accordingly, it is felt that Claims 2-9, 11-12, 14-17 and 19-20 are patentable under 35 USC 102(e) over Sarkar.

Claim 21 and 24-25 were rejected under 35 USC 102(e) as being anticipated by US Patent Application Publication No. 2004/0160914 to Sarkar. Applicants respectfully traverse. Claim 21 recite the limitation of “broadcasting an availability of resources message in response to the determined reverse link loading.” (underline added for emphasis) For the reasons discussed earlier with respect to claims 1 and 13, Sarkar does not teach or suggest “broadcasting an availability of resources message in response to the determined reverse link loading.” Accordingly, it is felt that claim 21 is patentable under 35 USC 102(e) over Sarkar.

Claims 24-25 depend upon, and include all the limitations of, claim 21. For the reason discussed earlier with respect to claim 21, Sarkar does not teach or suggest “broadcasting an availability of resources message in response to the determined reverse link loading.” Accordingly, it is felt that claims 24-25 are patentable under 35 USC 102(e) over Sarkar.

103(a) rejection under Sarkar and Holma

Claim 23 was rejected under 35 USC 103(a) as being unpatentable over US Patent Application Publication No. 2004/0160914 to Sarkar in view of US Patent Application Publication No. 2002/0136192 to Holma et al. Claim 23 depends upon, and includes all the limitations of, claim 21. For the reasons discussed earlier with respect to claim 21, Sarkar does not teach or suggest “broadcasting an availability of resources message in response to the evaluated reverse link loading.” It is also believed that Holma does not teach or suggest “broadcasting an availability of resources message in response to the evaluated reverse link

loading.” Accordingly, it is felt that claim 23 is patentable under 35 USC 103(a) over Sarkar in view of Holma.

#### Response to Applicants’ arguments

In response to Applicants previous arguments filed 3/23/06, Examiner stated that the such arguments have been fully considered but were not persuasive. Applicants do not believe all of their arguments have been fully considered. 37 CFR 1.104 requires that the Examiner’s action be complete as to all matters. Where Applicants traverse any rejection, Examiner should, if he or she repeats the rejection, take note of the Applicants’ arguments and answer the substances of them. See MPEP 707.07(f). In the present office action, Examiner is repeating the rejections of claims 1-9, 11-17, 19-21 and 23-25 for the same reasons stated in the previous office action. However, Examiner has not answer the substances of Applicants’ earlier arguments. In the present office action, Examiner merely stated that Sarkar shows determining whether resources are available on the reverse link, and that it is inherent that this is done within a finite time. Examiner has not responded to (nor does it appear that Examiner had considered) Applicants’ argument that Sarkar does not teach or suggest “evaluating a reverse link loading by examining at least two resources within a first time period” or “broadcasting an availability of resources message in response to the evaluated reverse link loading.” (underlines added for emphasis) For the reasons stated above, Sarkar does not teach or suggest “evaluating a reverse link loading by examining at least two resources within a first time period” or “broadcasting an availability of resources message in response to the evaluated reverse link loading.” Accordingly, it is respectfully submitted that claims 1-9, 11-17, 19-21 and 23-25 are patentable under 35 USC 102(e) over Sarkar, and claim 23 is patentable under 35 USC 103(a) over Sarkar in view of Holma.

#### Claims 10 and 18

Applicants respectfully note that the present office action (of May 16, 2006) does not provide any reasons for rejection claims 10 or 18 although the Office Action Summary (PTOL-326) indicates that claims 10 and 18 have also been rejected.